

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 453 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SHARDABEN VITHALBHAI GANDHI

Versus

STATE OF GUJARAT

Appearance:

MR HM PARIKH for Petitioners
Mr K G Sheth, APP for Respondent No. 1
MR MUKESH H RATHOD for Respondent No. 2
DELETED for Respondent No. 3

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 10/04/2001

ORAL JUDGEMENT

The present petitioners are the accused before
the learned Judicial Magistrate First Class at Anand in
criminal case no.231/99 for having committed offences

punishable under sections 498, 323, 504 and 506(2) of the Indian Penal Code. A complaint was filed on 21.12.1998 against them. The same was referred for investigation under Section 156(3) of the Code of Criminal Procedure, 1973. After investigation, charge-sheet has been filed and, therefore, the trial was going on against the petitioners. During the course of the pendency of the said trial, the original informant/complainant submitted an application on 5.1.1999 for production of passport before the trial court, so that the petitioners may not run away outside the territory of India. The trial court allowed the application by order dated 3.10.2000 and directed the petitioners to submit their passports before the trial court and on such submission, the same may be kept in safe custody with the Nazir of the Court. Feeling aggrieved by that order of the trial court, the present Revision Application has been filed.

2. Rule was issued and Mr Mukesh Rathod, learned Advocate appears for original complainant whereas Mr K G Sheth, learned APP appears for the State. During the course of hearing a consensus was arrived and by consent of the learned Advocates for the parties and hence following order is passed:

- (i) The order of the learned Magistrate dated 3.10.2000 directing the petitioners to submit passport within 10 days and on such submission, the same may be retained in the safe custody of the Nazir which is impugned, in the revision application is ordered to be set aside.
- (ii) The learned Advocate for the petitioner has assured that the petitioners being accused in the aforesaid criminal case, will not seek any adjournment on the ground that the petitioners are not present in the court.
- (iii) Learned Advocate for the petitioners also agrees and assures that in case the petitioners are unable to attend the court, they will apply for permission to appear through Advocate.
- (iv) He further assures that no dispute about the identity of the accused shall be raised by the petitioners, if they remain absent and apply for permission to remain absent.
- (v) He also assures that the trial may proceed ahead according to law and if the petitioners are not present, the trial may proceed in absence of the

petitioners and the petitioners, at appropriate time, may be permitted by the court concerned to remain present through their Advocate.

3. On the aforesaid conditions, the present Revision Application is ordered to be disposed of. The above assurance will naturally help in expeditious disposal of the case of the original complainant. It is further made clear that in case the petitioners do not remain present and do not seek permission to remain absent and/or do not seek permission to remain present through Advocate and on account of the said action on the part of the petitioners if the trial is held up or delayed or at any material occasion, if it is found that the personal attendance of the petitioner is absolutely necessary and if the court so directs and yet the petitioners do not obey the orders of the court, it would be open to the original complainant to make an application for cancellation of bail order and if such prayer is made, the trial court shall dispose of such an application according to law. Mr K G Sheth, learned APP also states that if such a direction is given, the case of the original complainant can proceed ahead smoothly without any interruption.

4. With these observations and with the above direction, this Revision Application stands disposed of. Rule is made absolute to the aforesaid extent.

10.4.2001 [D P Buch, J.]

msh